

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Communications Assistance for Law Enforcement
Act

CC Docket No. 97-213

SBC COMMUNICATIONS INC. COMMENTS

I. INTRODUCTION

SBC Communications Inc., on behalf of its affiliates Southwestern Bell Telephone Company, Pacific Bell, Nevada Bell, Southwestern Bell Wireless Inc., Southwestern Bell Mobile Systems, Inc., and Pacific Bell Mobile Services, Inc. (collectively "SBC"), responds to the Commission's Public Notice¹ inviting comments on the petitions filed in the above docket related to the extension of the October 25, 1998 compliance date pursuant to Section 107(c) of the Communications Assistance for Law Enforcement Act ("CALEA"). 47 U.S.C. 1006.

SBC joins the rest of the industry in urging the Commission to act as quickly as possible to extend the present October, 1998 compliance deadline for CALEA's assistance capability requirements by at least two years, to October 25, 2000,

¹ Communications Assistance for Law Enforcement Act, *Public Notice*, CC Docket No. 97-213, DA 98-71, rel. April 20, 1998.

or until such date as compliance with new standards would be reasonably achievable pursuant to §1006(b)(5).

As noted in the AWS Petition,² CALEA-compliant hardware and software cannot and will not be available for installation or deployment by carriers with respect to all facilities or equipment within the existing compliance period. This alone makes clear that compliance is not reasonably achievable by October of 1998 through application of available technology, which justifies the Commission in delaying the compliance deadline pursuant to 47 U.S.C. §1006(c). The Commission should not be persuaded otherwise by the vague assertions of the FBI that a network-based CALEA solution is or will be generally available in time for carriers to meet the current deadline. SBC has diligently conferred with manufacturers and designers known to be capable of potentially developing such a solution, and it is clear to SBC's technical experts that any such solution cannot be made generally available by October, 1998. It is equally clear to SBC that no such solution has yet been proved to be effective with respect to all presently installed or deployed switching platforms. Any "solution" that cannot actually work with each of the different platforms presently employed (or proposed to be employed) by carriers is, in truth, no solution at all.

² AT&T Wireless Services, Inc., Lucent Technologies, Inc., and Ericsson, Inc., *Petition for Extension of the Compliance Date under Section 107 of the Communications for Law Enforcement Act*, filed March 30, 1998 ("AWS Petition").

**II. THE COMMISSION CAN MOST QUICKLY AND EFFICIENTLY
EXTEND THE CAPABILITY COMPLIANCE DEADLINE BY
AUTHORIZING A BLANKET EXTENSION TO ALL CARRIERS
SUBJECT TO CALEA**

There are three options available to the Commission for extending the CALEA capability compliance deadline.³ These are as follows:

A. The Commission may grant a "blanket" extension to all carriers covered by the assistance capability requirements of CALEA, applicable to all equipment, facilities and services installed or deployed, or proposed to be installed or deployed, by all such carriers prior to October 25, 2000 or for a reasonable time thereafter to allow for development and deployment of effective CALEA-compliant hardware and/or software.

B. The Commission may grant extensions only to those carriers subject to CALEA who file petitions for extensions pursuant to 47 U.S.C. §1006 (c)(1), making such extensions applicable to all equipment, facilities and services, as described in option "A" above.

C. The Commission may grant extensions only to carriers who file petitions, and only apply such extensions to specific facilities, equipment, and services identified in the petitions.

³ The Commission's Public Notice requested comments on this issue in the context of an assumption that an extension is warranted. SBC believes that the Commission need not make such assumption because the fact that an extension is warranted is manifest from the petitions already on file, as well as the industry's comments and reply comments in response to the Notice of Proposed Rulemaking in CC Docket No. 97-213.

Of these three options, clearly option "A" is the most appropriate for a quick and efficient resolution of the compliance deadline extension problem. It would not require any additional filings before the Commission, and therefore would avoid the expenditure of significant time and effort by both the Commission and its staff, as well as by interested carriers or other parties who might otherwise file petitions and/or comments on petitions submitted by others. Option "B" would be the next best choice; while it would require additional filings, and thus more time and effort for review thereof by the Commission and its staff, it would still be preferable to option "C", the least efficient of the three. Option "C" would require not only that many additional parties file petitions seeking compliance deadline extensions, but also would require that each such filing be much longer and more detailed in order to specify all facilities and equipment to which the requested extension would apply, if granted by the Commission.

CALEA permits a carrier to petition the Commission for an extension of the compliance deadline. 47 U.S.C. §1006(c)(1). Nothing, however, prohibits the Commission from exercising its authority pursuant to §1006(c)(2) by granting a blanket extension. The Communications Act specifically authorizes the Commission to act as necessary in the execution of its functions, as well as to choose how to conduct its proceedings in ways that best enable the Commission to perform its functions fairly and reasonably. 47 U.S.C. 154(i), 154(j). The Commission has on many occasions acted *sua sponte* when it determined that it was in the public interest to do so. Accordingly, option "A" would clearly be the most efficient way for the Commission to address the issue of extensions, since the unavailability of technology to comply with the assistance capability requirements of the law affects all carriers equally. Therefore, SBC

recommends that the Commission adopt option "A" which is in the public interest by providing an efficient response to the industry's inability to meet the existing CALEA compliance date.

If, however, the Commission favors option "B", and requires a carrier to file a petition for an extension of the compliance date, it should not require a petition to individually list all equipment, facilities, or services to which a requested extension would apply. There is no specific requirement in 47 U.S.C. §1006(c) to do so; all that is required is that Commission determine that compliance with the assistance capability requirements under section 1002 is not reasonably achievable through the application of technology available within the compliance period, and the record in this docket supports that fact. In order to facilitate option "B", carriers must be permitted simply to represent in their petitions that compliance by the October, 1998 deadline is not reasonably achievable with respect to each carrier's entire network and all of its services through application of technology currently available.⁴

In addition, SBC suggests that, in order to streamline the process of granting extensions, no further comments should be sought on specific petitions by carriers once the instant comment cycle is concluded. All petitions for extensions can and should be determined based on the Commission's findings as to whether or not technology is currently available to all carriers, and applicable to all existing or proposed switching platforms and network designs, that would permit compliance with CALEA's

⁴ Concurrent with these comments, SBC is filing its *Petition for Extension of Compliance Date* and incorporates herein its discussion of the unavailability of CALEA-compliant technology.

requirements by October 25, 1998, and if not, by what date such compliance would be reasonably achievable.

Given the inefficiency of option "C", SBC urges the Commission to avoid requiring carriers to list specific facilities, equipment and services, if the Commission requires individually filed petitions for extensions.

III. THE SCOPE OF CALEA REQUIREMENTS WILL SIGNIFICANTLY IMPACT THE TIMING OF THE INDUSTRY'S ABILITY TO MEET CALEA CAPABILITY REQUIREMENTS

The Public Notice also requests comments concerning the scope of the assistance capability requirements of CALEA, to be filed in a separate comment cycle. All interested parties must await those filings before a complete picture of the issues involved can be formed, but the Commission should be aware that the ultimate outcome of the debate over CALEA's scope must have a significant impact on the timing of the industry's ability to comply with the capability requirements. The fundamental nature and cost of the engineering, design and development tasks facing carriers and manufacturers could be altered significantly should any or all of the expanded capabilities represented by the FBI's "punch list" be deemed by the Commission to be required by CALEA. Nevertheless, a great deal of necessary work can be accomplished within the framework of the existing interim industry standard, J-STD-025. Thus, the Commission can facilitate more timely completion of the CALEA compliance process by ruling as soon as possible that J-STD-025 constitutes a "safe harbor" for carriers and

manufacturers under 47 U.S.C. §1006(a), subject to possible modification of that standard at a later time depending upon the outcome of the Commission's review.⁵

IV. CONCLUSION

For the reasons given above, SBC urges the Commission to find that a blanket extension for all carriers subject to CALEA is in the public interest in that it is the most efficient and reasonable means to resolve the compliance deadline extension problem. Based on the clear record established by the filings in CC Docket No. 97-213 that compliance with the assistance capability requirements is not reasonably achievable

⁵ SBC will file more extensive comments concerning the proper scope of the CALEA assistance capability requirements pursuant to the schedule established by the Public Notice.

through application of technology available within the compliance period, the Commission should immediately grant such an extension.

Respectfully submitted,

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Certificate of Service

I, Mary Ann Morris, hereby certify that the foregoing, "Comments of SBC Communications Inc." in Docket No. 97-213 has been filed this 8th day of May, 1998 to the Parties of Record.

A handwritten signature in cursive script, reading "Mary Ann Morris", is written over a horizontal line.

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May 8, 1998

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